



Cambridge City Council

LICENSING SUB COMMITTEE A

To: Councillors Boyce, Blencowe, Dixon

(Despatched and placed on public deposit: Wednesday 14 November 2007)

Date: Monday 19 November 2007
Time: 10.00am
Place: Committee Room 2, The Guildhall
Contact: John Blunt **Direct Dial:** 01223 457012

AGENDA

1 DECLARATIONS OF INTEREST

Members are asked to declare at this stage any interests which they may have in any of the following items on the agenda. If any member is unsure whether or not they should declare an interest on a particular matter, they are requested to seek advice from the Head of Legal and Democratic Services before the meeting.

2 EXCLUSION OF THE PUBLIC

Before considering the next items on the agenda, the Sub Committee is **recommended** to exclude members of the public from the meeting on the grounds that, if they were present, there would be disclosure to them of information defined as exempt from publication by Category 2 as defined in the Local Government (Access to Information) (Variation) Order 2006.

3 TO CONSIDER THE STANDING OF A PRIVATE HIRE DRIVER'S LICENCE

Report by the Head of Environmental Services

4 TO CONSIDER THE APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S AND PRIVATE HIRE DRIVER'S LICENCE

Report by the Head of Environmental Services

5 TO CONSIDER THE STANDING OF A PRIVATE HIRE DRIVER'S LICENCE

Report by the Head of Environmental Services

Information for the Public

Public attendance

You are welcome to attend this meeting as an observer, although it may be necessary to ask you to leave the room during the discussion of matters which are described as confidential.

Public Speaking

You can ask questions on an issue included on either agenda above, or on an issue which is within this committee's powers. Questions can only be asked during the slot on the agenda for this at the beginning of the meeting, not later on when an issue is under discussion by the committee. If you wish to ask a question related to an agenda item contact the committee officer (listed above under 'contact') **before the meeting starts**. If you wish to ask a question on a matter not included on this agenda, please contact the committee officer by 10.00am the working day before the meeting. Further details concerning the right to speak at committee can be obtained from the committee section.

Emergency Evacuation

In the event of a fire or other emergency you will hear a continuous ringing alarm. You should leave the building by the nearest exit and proceed to the assembly point in St Mary's Passage on the left hand side of Great St Mary's churchyard.

Do not attempt to use the lifts.

Do not attempt to re enter the building until given the all clear by a member of the City Council Staff. City Council staff will provide assistance with leaving the building.

Disciplinary Hearings Procedure

Below is a guidance note concerning the procedure for attending Licensing Disciplinary Committee meeting.

Investigations into possible misconduct on the part of a licence holder are carried out on behalf of the Head of Environmental Services by one of his officers. This officer will be called the "investigating officer".

A Licensing Disciplinary Committee meeting is arranged when there appears to be sufficient evidence of misconduct serious enough to justify revoking or suspending a licence.

- The licence holder will be informed of the decision to refer the case to the Committee by letter and will be asked to indicate which of the witnesses s/he wants to attend the hearing to give their evidence in person. Those involved will be notified of the date, time and place once it has been fixed by letter.
- A confidential written report will be prepared on behalf of the Head of Environmental Services. This report will:
 - Outline the legal powers of the Committee and the circumstances in which they may be exercised;
 - Summarise or reproduce all the relevant available evidence;
 - Identify what factual matters are in dispute and indicate the issues which the Committee will need to address;
 - Explain which of the matters alleged may, if proven, justify disciplinary action.
- The licence holder will be given details of evidence which has not been included in the report because it does not appear to be relevant or helpful, unless it is evidence which the licence holder can be expected to know about already or there is good reason for keeping it confidential.
- The Head of Environmental Services will aim to send the licence holder a copy of the report before the hearing to give him/her the opportunity to comment on it or, if he/she chooses, to submit further written representations or additional evidence. If appropriate, the report will be revised to take account of any comments, representations or additional evidence submitted by the licence holder.
- The final version of the report will be sent to the members of the Licensing Disciplinary Committee and the licence holder at least three working days before the hearing.

At any stage the licence holder may instruct someone (such as a solicitor, a friend or relative, an employer or a member of a trade organisation) to act as his/her representative.

- The licence holder can be represented at the hearing whether or not the licence holder attends the hearing.
- Any references in this note to a licence holder should be taken to include his/her representative.

If a member of the Committee becomes aware of a possible conflict of interest before or during the hearing they should raise this with the Head of Environmental Services or his legal representatives at once.

- Members should not take part in hearing a case if they have a personal interest or involvement with it or the issues raised by it might be seen as affecting their impartiality, e.g. if they know the licence holder or a complainant, or they have been previously involved with the case or a closely related case in another capacity.

Present at the hearing will be members of the Licensing Disciplinary Committee, the investigating officer and other officers who will act as the Committee's legal advisers.

- At the start of the hearing the Committee will ask for the exclusion of the press and public from the meeting.
- If neither the licence holder nor a representative attend the hearing the Committee may, after considering any explanation for this, carry on with the hearing and reach a decision in the licence holders absence.
- The hearing will be subject to the usual rules and the provisions of Standing Orders governing Committee meetings.
- Witnesses will be allowed into the hearing only when giving their evidence.
 - The hearing will be conducted by the Chair. Unless the Committee decides otherwise, the order of events will be as follows:
 - The investigating officer and then the licence holder will be given an opportunity to make opening remarks.
 - The investigating officer will present the evidence in the hands of the Council regardless of whether it is favourable or unfavourable to the licence holder. If witnesses give evidence s/he will take them through it.
 - The licence holder may question witnesses after each has given evidence. Members of Committee may then question each witness or the investigating officer if they wish to clarify any points.
 - When the investigating officer has finished presenting evidence, the licence holder will then be given an opportunity to reply beginning with any introductory comments. The licence holder may give evidence or call additional witnesses if s/he wishes. Anyone giving evidence will be subject to questioning by the investigating officer and members of the Committee.
 - When all the evidence has been offered, the investigating officer and then the licence holder may address the Committee. The investigating officer may comment on the evidence.
 - If the Committee wish to consider their decision in private, everyone, except the members of the Committee and their legal advisers, will be asked to leave the room.
 - The Chair will announce the decision of the Committee to the licence holder directly.

Evidence can be given in writing or by the investigating officer as well as by witnesses in person. There are no legal restrictions limiting what kinds of evidence can be heard or the form in which it must be presented.

- If a witness whose presence is requested by the licence holder is unable or unwilling to attend and the Committee does not wish to adjourn the hearing, their evidence may be given in writing instead.
- The licence holder can give evidence about his/her character in any way s/he thinks fit, e.g. by letters of reference or by calling witnesses.

The licence holder will be sent a letter formally notifying him/her of the decision as soon as possible. This letter will explain what rights of appeal are available and the time limits within which an appeal should be made. The Committee has no power to order any person to pay the costs incurred by any other person in taking part in the hearing.

Grounds for Disbarment

Statement of policy defining "fit and proper person" as it relates to the grant, renewal and holding of a "taxi" drivers licence.

The Council can only grant, renew or allow a person to hold either a Hackney Carriage or Private Hire Drivers licence if they are satisfied that the person is a "fit and proper person". To enable this to be determined all new applications are required to obtain an Enhanced Disclosure form from the Criminal Records Bureau. Applications for renewal of existing licences will be submitted to the CRB for a disclosure every 3 years and constant monitoring of licence holders shall be undertaken to ensure that they remain within the policy guidelines.

The disclosure of a criminal record or other relevant information will not necessarily disbar a person from obtaining or holding a "taxi" drivers licence unless the Council considers that the conviction(s) render you unfit. Although each application is considered on its own merit a person who is found to have, at the time of application for the grant or renewal of a licence or during the period of a licence being valid, convictions within the Councils "Taxi Drivers - Grounds for Disbarment" policy, will not normally be granted a licence, and in the case of an existing licence holder may have it revoked.

Unless there are special circumstances it is unlikely that a person will be granted a licence, allowed to renew a licence or

continue to hold an existing licence if they have:

Item 1 = been convicted of any offence of a sexual nature which is not spent under the Rehabilitation of Offenders Act 1974.

Item 2 = been convicted of any offence involving possession, supply of drugs or related offence not spent under the Rehabilitation of Offenders Act 1974.

Item 3 = been convicted of any offence involving dishonesty not spent under the Rehabilitation of Offenders Act 1974.

Item 4 = been convicted of any offence involving violence not spent under the Rehabilitation of Offenders Act 1974.

Item 5 = been convicted within the last five (5) years of more than one offence of drunkenness or related (see also item 7).

Item 6 = held their DVLA drivers licence for less than two (2) years after its return as a result of suspension for any reason.

Item 7 = been convicted of any offence relating to alcohol and motor vehicles which is not spent under the Rehabilitation of Offenders Act 1974.

Item 8 = been convicted within the past three (3) years of any offence which resulted in six (6) or more points being attached to their drivers licence.

Item 9 = been convicted within the past one (1) year of any combination of offences relating in six (6) or more points being attached to their drivers licence.

Item 10 = If at the time of application for grant, renewal or during the life of an existing licence have more than nine (9) points attached to their drivers licence.

Item 11 = If they have more than one (1) conviction relating to "taxi" law which is not spent under the Rehabilitation of Offenders Act 1974.